

Applicant : Roger Draft
Appln. No. : 10/785,636
Page : 6

REMARKS

The Examiner rejected claims 1, 6, and 8-13 under 35 U.S.C. § 102(b) as being anticipated by Ruggieri et al.; rejected claims 1, 2, 6, and 8-13 under 35 U.S.C. § 102(b) as anticipated by Ziegler; and rejected claims 1-13 and 18 under the judicially created doctrine of obviousness-type double patenting. Claims 14-17 have been withdrawn from consideration. Reconsideration of the application is respectfully requested.

I. § 102 REJECTIONS

Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, as arranged in the claim. *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 221 U.S.P.Q. 481, 485 (Fed. Cir. 1984). In proceedings before the Patent & Trademark Office, the Examiner bears the burden of establishing a prima facie case of anticipation based upon a prior art. *In re Sun*, 31 U.S.P.Q. 2d 1451, 1453 (Fed. Cir. 1993) (unpublished). The Applicant respectfully submits that the Examiner has not yet met her burden of establishing a prima facie case of anticipation with respect to the rejected claims.

A. Rejection of Claims 1, 6, and 8-13 Based on Ruggieri et al.

The Examiner has rejected claims 1, 6, and 8-13 as being anticipated by Ruggieri et al. (U.S. Patent No. 4,365,590). Claim 1 recites, among other things, a cavity near the bottom of the cage that is adapted to receive the bottom portion of the at least one door when the door is closed. Ruggieri et al. does not disclose a cavity near the bottom of the cage, nor any cavity adapted to receive the bottom portion of the door. Instead, the doors of Ruggieri et al. have a frame side panels around their perimeter which abut a horizontal frame piece when the door is in the closed position. The drawings do not show such a cavity, as recited in the claims of the present application.

Furthermore, with respect to claim 6, Ruggieri et al. does not disclose a cradle attached to the frame near the top of the opening that is adapted to receive the bottom of the door. Instead, Ruggieri et al. disclose a guide track that has an elongated, rectangular body having a linear groove or slot which the top of the door can slide along. (See Fig. 8). There is an inclined ramp surface 190, but no cavity and the bottom of the door, which includes a locking screw 214 near its bottom, never reaches the guide track, including the inclined ramp surface. When the door of

Applicant : Roger Draft
Appln. No. : 10/785,636
Page : 7

Ruggieri et al. is slid as far back as it can go, it is *substantially* the entire length of the door frame and the frame side panels rest upon the outer track surfaces to hold the door in place. However, the front panel of the door frame projects from the front of the cage rack. ('590 patent, col. 10, lines 10-12). Thus, there is no cavity in which the bottom of the door rests in the Ruggieri et al. structure, and thus the Ruggieri et al. reference is not anticipatory of claim 6 either for this additional reason.

Regarding claim 8, as noted above, there is no cradle attached to the frame that is adapted to receive the bottom of the at least one door to hold the door open. Instead, there is a track system in the Ruggieri et al. reference. Even when the door is in the fully retracted position, the front panel of the door projects from the front of the cage rack. Thus, the Ruggieri et al. reference does not anticipate claim 8. Claims 9-13 are dependent on claim 8 and, therefore, by definition cannot be anticipated since claim 8, the claim from which they depend, is not anticipated.

Therefore, the Applicant respectfully requests that the § 102(b) rejection over Ruggieri et al. be withdrawn.

B. Rejection of Claims 1, 2, 6, and 8-13 Based on Ziegler

The Examiner has rejected claims 1, 2, 6, and 8-13 under 35 U.S.C. § 102(b) as anticipated by Ziegler U.S. Patent No. 2,220,436. As an initial matter, it should be noted that the pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified. 37 C.F.R. § 1.104(c)(2). The Examiner has not specified why she considers claims 1, 2, 6, and 8-13 to be anticipated by Ziegler, and the Applicant traverses the rejection of claims 1, 2, 6, and 8-13 on that basis.

Ziegler is directed to an adjustable door type partition. Claim 1 of the present application recites, among other things, a top horizontal rod that rides along a member attached to the frame. Ziegler does not disclose such a top horizontal rod of the partition which rides along a member attached to the frame. Instead, Ziegler discloses wheels 39 that ride along a horizontal, intermediate member. Furthermore, Ziegler does not disclose a door adjacent the opening of a cage. Thus, the Ziegler patent cannot anticipate claims 1 or 8 of the present application as it does not contain all the elements of the claims. Because claim 6 is dependent on claim 1, and claims 9-13 are all ultimately dependent on claim 8, those claims likewise are not anticipated by Ziegler.

Applicant : Roger Draft
Appln. No. : 10/785,636
Page : 8

Therefore, the Applicant respectfully requests that the § 102(b) rejection of claims 1, 2, 6, and 8-13 over Ziegler be withdrawn.

II. CLAIMS 3, 4, 5, 7, AND 18

The Examiner has not rejected claims 3, 4, 5, 7, and 18 over the prior art and, therefore, the Applicant assumes that such claims are in allowable condition, given that a Terminal Disclaimer is being filed herewith (as discussed below).

III. DOUBLE PATENTING REJECTION

The Examiner has rejected claims 1-13 and 18 under the judicially created doctrine of obviousness-type double patenting over claims 1-7 of U.S. Patent No. 6,694,918. A Terminal Disclaimer in compliance with 37 C.F.R. § 1.321(c) is being filed herewith thereby obviating any potential obviousness-type double patenting. Accordingly, the Applicant respectfully requests that the double patenting rejecting be withdrawn.

IV. CONCLUSION

The Applicant submits that the claims are in condition for allowance, a notice of which is respectfully solicited.

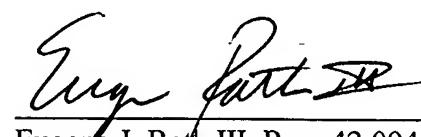
Respectfully submitted,

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